

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7323

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TENA C. GASTON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Margaret B. Seymour, District Judge. (CR-97-459, CA-00-3600-7-24)

Submitted: April 24, 2003

Decided: May 1, 2003

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Tena C. Gaston, Appellant Pro Se. Marvin Jennings Caughman, Assistant United States Attorney, Columbia, South Carolina; Elizabeth Jean Howard, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Tena C. Gaston seeks to appeal the district court's order denying relief on her motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken to this court from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). We have independently reviewed the record and conclude that Gaston has not made a substantial showing of the denial of a constitutional right. See Miller-El v. Cockrell, 123 S. Ct. 1029, 1039 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000). Gaston's motion to proceed in forma pauperis on appeal is denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED